

Claims 13-19 stand rejected under 35 USC 103(a) as being unpatentable over Mitsuya in view of Levin, Yano, Ueda, and Hamaguchi. Claims 20-23 stand rejected under 35 USC 103(a) as being unpatentable over Mitsuya in view of Yano and Broderick. Each of these rejections is respectfully traversed.

Mitsuya provides a general disclosure of preparing a delipidated egg yolk powder by means of spray-drying in the paragraph [0006], although this is not supported by examples. However, as to the mixing with a fat or oil such as fish oil, Mitsuya teaches:

... the mixing as referred to herein may be simply a step of homogeneous stirring with Super-Mixer or the like, without necessitating dispersing with water or the like or spray-drying.

Therefore Mitsuya is completely silent as to the method of stirring into a homogeneous mixture under reduced pressure as taught by the present invention.

This stirring in feature is a crucial distinction over Mitsuya. Properties such as flowability and flavor of the resulting powder composition are completely different in accordance with the different mixing procedures employed in the preparation of the powder. This is clearly established by the Declaration under 37 CFR 1.132 of Senji SAKANAKA enclosed herewith.

In the SAKANAKA Declaration, the first step of the process for preparing the powder composition is as follows: The delipidated egg yolk particles (A) are prepared by vacuum drying method. This corresponds to the process of Mitsuya Example 1. The delipidated egg yolk particles (B) are prepared by a spray-drying method. This corresponds to the present invention (and to generic disclosure of Mitsuya).

Four different powder compositions – AS, BS, AR, BR – are prepared by a second step. AS and BS are embodiments in which a mixture of the delipidated egg yolk particles (A) or (B) with a fish oil are stirred by using a Super Mixer into a homogeneous state. These embodiments of the second step correspond to Example 2 of Mitsuya, in which a Super Mixer is used. In contrast, AR and BR are embodiments in which a mixture of the delipidated egg yolk particles (A) or (B) with a fish oil are dried under reduced pressure. These embodiments of the second step correspond to the method of the present invention.

It should be noted that even if the delipidated egg yolk particles (B) were prepared by spray-drying in accordance with the generic disclosure of Mitsuya, Mitsuya does not teach that the delipidated egg yolk particles should be mixed with fish oil and dried under reduced pressure. Therefore, AS corresponds to

Examples 1 and 2 of Mitsuya, and BS corresponds to the general disclosure of Mitsuya and Example 2 of Mitsuya.

In the course of an interview with Applicants' representative, Richard Gallagher, the Examiner kindly agreed that the SAKANAKA Declaration does compare prior art (Mitsuya) products to products made in accordance with the present invention. Applicants point out that the angle of repose and the fish odor in AS and BS are both notably poorer than those obtained by the method of the present invention (BR).

The ancillary references fail to make up the deficiencies of the primary reference. For instance, it is noted that while Ueda discloses a spray-dried egg yolk powder, he fails to disclose spray-dried, delipidated egg yolk particles. *A priori*, Ueda does not disclose delipidated egg yolk particles having pores. While Yano does disclose a spray-drying process, his spray-drying is carried out before the delipidation process. In contrast, the egg yolk is first delipidated and only then spray-dried in the present invention. It is respectfully submitted that the Levin, Yano, Ueda, Hamaguchi, and Broderick references -- even when combined with Mitsuya -- fail to render the process of the present invention obvious.

The Examiner had argued that reduced pressure is not reflected in the rejected claims. Applicants respectfully disagree. It is clearly recited in claim 20 that mixing is carried out under reduced pressure. This limitation need not be expressly recited in the composition claims, which do expressly require that the angle of repose be 60° or less. As illustrated in the SAKANAKA Declaration, this limitation in the composition claims distinguishes the present invention over the teaching of the Mitsuya reference.

Conclusion

It is believed that a full and complete response has been made to the Office Action. Accordingly, the Examiner is respectfully requested to pass the application to Issue.

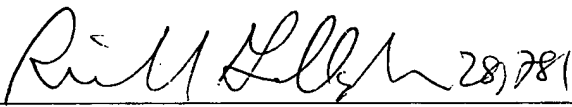
Pursuant to 37 C.F.R. §§1.17 and 1.136(a), Applicants respectfully petition(s) for a one-month extension of time for filing a reply in connection with the present application, and the required fee of \$110 is attached.

In the event there are any matters requiring discussion remaining in this application, the Examiner is invited to contact Mr. Richard Gallagher, Registration No. 28,781 at (703) 205-8008.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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